IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 7TH AUGUST 2007 / 16TH SRAVANA 1929

Crl.MC.No. 2525 of 2007()

CC.2331/2001 of JUDL. MAGISTRATE OF FIRST CLASS-I, KOCHI

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PETITIONER: 2ND AND 1ST ACCUSED:

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1. K. ABILASH,
   PROPRIETOR, M/S. KRYSON CARTONS, 6/217,
   PUTHIYANIRATHU, ELATHUR, CALICUT.

2. M/S. KRYSON CARTONS,
   6/217, PUTHIYANIRATHU, ELATHUR, CALICUT,
   REPRESENTED BY ITS PROPRIETOR, K.ABHILASH.

BY ADV. SRI.K.B.ARUNKUMAR

RESPONDENTS:

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1. STATE OF KERALA,
   REPRESENTED BY THE PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA, ERNAKULAM.

2. M/S. MAHARAJ ENTERPRISES,
   39/2699, 1ST FLOOR, SYAMANTHAKAM, PALLIYIL LANE,
   COCHIN-16, REPRESENTED BY MR.VINOD KUMAR, IT'S
   POWER OF ATTORNEY HOLDER.

R1 BY PUBLIC PROSECUTOR SRI.M.S. BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 07/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

Crl.M.C. No.2525 OF 2007

Dated this the 7th day of August, 2007

ORDER

The petitioners face indictment in a prosecution under Sec.138 of the Negotiable Instruments Act. They were acquitted under Sec.256 of the Cr.P.C. An appeal was taken to this Court. That appeal was allowed and the matter was remanded back to the learned Magistrate. The petitioners were directed to appear before the court below on a specified date. The petitioners could not appear on such date or thereafter till now. Consequently, warrants of arrest have been issued against the petitioners. The petitioners find such warrants of arrest chasing them now. According to the petitioners, they are absolutely innocent. Their failure to appear earlier was not willful; but was due to reasons beyond their control. The petitioners are now willing to surrender before the learned Magistrate, apply for bail and co-operate

with the court for the expeditious disposal of the case.

2. The petitioners, in these circumstances, want to surrender before the learned Magistrate and seek regular bail. The petitioners apprehend that their applications for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is, in these circumstances, that the petitioner has come to this Court for a direction to the learned Magistrate to release them on bail when they appear before the learned Magistrate.

2. It is for the petitioners to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which they could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioners' applicatios for regular bail on merits, in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

3. In the result, this Crl.M.C. is dismissed; but with the observation that if the petitioners surrender before the

Investigating Officer or learned Magistrate and seek bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge